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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/756,383	01/14/2004	James J. Jaklitsch	13346-191189	1860
26694	7590	10/19/2005		EXAMINER
VENABLE LLP				GUADALUPE, YARITZA
P.O. BOX 34385				
WASHINGTON, DC 20045-9998			ART UNIT	PAPER NUMBER
			2859	

DATE MAILED: 10/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

AK

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/756,383	JAKLITSCH ET AL.
	Examiner Yaritza Guadalupe McCall	Art Unit 2859

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 03 August 2005.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1,3-8,15-19,21 and 22 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 1,3-7,15-19,21 and 22 is/are allowed.
- 6) Claim(s) 8 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>10/5/2005</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

## **DETAILED ACTION**

### **Acknowledgement**

1. The Amendment filed on August 3, 2005 has been entered. The present Office Action is made with all the suggested amendments being fully considered. Accordingly, pending in this Office action are claims 1, 3 – 8, 15 – 19 and 21 – 22.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 8, as newly amended, recites a method for aligning a device with respect to a reference line for the device by transferring parallel and non-parallel lines comprising the step of “transforming the position of said device to reference coordinates other than the reference line coordinate system”. This limitation is indefinite because the “reference coordinates” to which the position of the device is being transformed have not been previously defined and it is not clear

how are these obtained and what are the metes and bounds of the claim language. How are the reference coordinates different from the reference line coordinate system ? What are these reference coordinates ? The indefiniteness of the claim language renders difficult to perform the method as claimed.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 8 is rejected under 35 U.S.C. 102 ( b ) as being anticipated by Hamilton et al. ( US 5,438,404 ).

With respect to the method steps as stated in claim 8, the method for aligning a device with respect to a reference line by transferring parallel and non-parallel lines ( See Column 20, lines 3 – 5 ), including the steps of determining a reference line for the device; aligning a stationary inertial sensor on the device with and offset respect to said reference line ( See Column 20, lines 6 - 7 ); projecting an electromagnetic beam from a portable inertial sensor to a mirror coupled to said stationary inertial sensor and detecting the angle of the reflected beam ( See Column 20, lines 8 – 11 ); determining the relative position of said portable inertial sensor

with respect to said stationary inertial sensor using the detected angle ( See Column 20, lines 12 – 14 ) and output data from each of a pair of gyroscopic sensors provided in said stationary and said portable inertial sensors ( See Column 20, lines 14 - 16 ); calculating the position of said device with respect to said reference line using said detected angle and said output data ( See Column 20, lines 19 – 21 ) and transforming into a coordinate system will be performed during the regular operation of the system disclosed by Hamilton et al.

***Allowable Subject Matter***

6. Claims 1, 3 – 7, 15 – 19 and 21 – 22 are allowed.

***Response to Arguments***

7. Applicant's arguments with respect to claim 8 have been considered but is moot in view of the new ground(s) of rejection.

***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

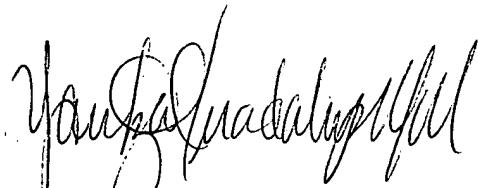
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yaritza Guadalupe McCall whose telephone number is (571)272-2244. The examiner can normally be reached on 8:00 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F.F. Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

YGM  
October 14, 2005



Yaritza Guadalupe-McCall  
Patent Examiner  
Art Unit 2859